

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**CLIFFORD BOOKER and LLOYD
HOWARD,**

Plaintiffs,

v.

MARIAN BROWN,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. **3:21-CV-245-L-BN**

ORDER

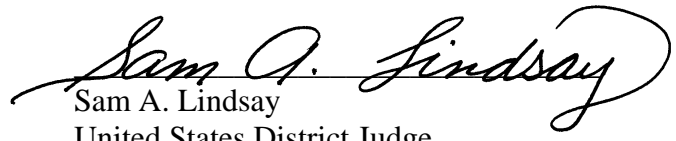
On April 22, 2021, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 10) was entered, recommending that this pro se civil rights action against the Dallas County Sheriff filed by Plaintiffs Clifford Booker and Lloyd Howard, both of whom are inmates at the Dallas County Jail, be dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute and comply with a court order. No objections to the Report were filed, and the time for doing so has passed.

Having reviewed the file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses without prejudice** this action, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute and comply with a court order.

The court prospectively **certifies** that any appeal of this action by Clifford Booker, who was granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915, would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir.

1997). Based on the Report, the court **concludes** that any appeal of this action by Clifford Booker would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, he may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

It is so ordered this 31st day of May, 2021.


Sam A. Lindsay
United States District Judge